

STATE OF MICHIGAN
MACOMB COUNTY CIRCUIT COURT

In re Adoption of ADR Plan

LCR 2004-7

This Plan is adopted pursuant to MCR 2.403, MCR 2.410, MCR 2.411 and MCR 3.216 to govern Case Evaluation and Alternative Dispute Resolution in the Macomb County Circuit Court.

A. Case Evaluation and ADR Clerk

The Circuit Court Administrator or the Court Administrator's designee is the Case Evaluation and ADR Clerk.

B. Case Evaluation Plan

This section covers the evaluation of cases in the Macomb County Circuit Court under MCR 2.403. Macomb County Circuit Court case evaluators also evaluate cases selected and referred by the Macomb County district courts desiring to participate.

1. Lists of Case Evaluators

a. Case Evaluator Application

An application form will be made available to those who wish to apply at the office of the ADR Clerk, on the Court's Web page and at the Macomb County Bar Association Office.

b. Case Evaluator Eligibility

To qualify as a case evaluator, a person must meet the qualifications in sub-rule MCR 2.404(B)(2).

c. Review of Applications

(1) Applications will be reviewed at least annually by an individual or committee appointed by the Chief Judge. An individual must be an employee of the Court. If a committee is created, it will consist of at least three members. The membership of the committee will include practicing lawyers, representatives of the Macomb County Bar Association, Court staff and members of the Circuit Court Bench. The selection of Committee members will be designed to assure that the goals of MCR

2.404(D)(2) are met. Members will be appointed to 3 year terms. A person will not be allowed to serve on the Committee more than 3 years in any 9 year period.

(2) An applicant who is not placed on a case evaluation list may appeal, in writing, to the Chief Judge within 30 days after notice of the decision is mailed to the applicant. There will be no oral argument. The Chief Judge will inform the applicant of the decision in writing.

d. Specialized Lists

(1) There will be a specialized personal injury list, which will consist of panels of three attorneys with experience and expertise in personal injury litigation.

(2) Personal injury panels will handle only personal injury cases. Case evaluators on the personal injury list will be divided into plaintiff case evaluators, neutral case evaluators and defense case evaluators depending on whether they primarily represent plaintiffs, defendants or are not identifiable with either.

(3) Additional specialized lists may be created in the discretion of the Chief Judge.

e. Term of Placement on Lists

Case evaluators will be appointed to a fixed term no greater than 5 years. The terms of case evaluators may be staggered so that a manageable number of case evaluators will be considered for reappointment each year.

f. Removal from lists; Appeal

Case evaluators who demonstrate incompetency, bias, made themselves consistently unavailable to serve as a case evaluator or show other just cause may be removed from the list. Case evaluator performance will be periodically reviewed using a statistical analysis. A case evaluator who is removed from a case evaluation list may appeal, in writing, to the Chief Judge within 30 days after notice of the decision is mailed to the case evaluator. There will be no oral argument. The Chief Judge will inform the case evaluator of the decision in writing.

g. Orientation and Training

Case evaluators will be provided with orientation materials explaining the case evaluation process and the operation of the Court's case evaluation program.

2. Assignment to Panels

Case evaluators will be assigned to panels in a random or rotating manner that assures as nearly as possible that each case evaluator on a list is assigned approximately the same number of cases over a period of time. If a substitute case evaluator must be assigned, a similar assignment procedure will be used to select the substitute.

C. ADR Plan

This section covers alternative dispute resolution ("ADR") in the Macomb County Circuit Court. Macomb County Circuit Court mediators also mediate cases selected and referred by the Macomb County District Courts which desire to participate.

1. Mediators will be recruited by publishing notice of the opportunity to apply to be a mediator, posting information in the Court buildings and posting information on the Court's Web page.
2. Mediators must meet or exceed the minimum qualifications of MCR 2.411(F)(civil cases) and/or MCR 3.216(G)(domestic cases) or the minimum training standards promulgated by the Michigan State Court Administrative Office.
3. An application form will be made available to those who wish to apply at the office of the ADR Clerk, on the Court's Web page and at the Macomb County Bar Association Office.
4. The ADR Clerk shall maintain a list of approved mediators which shall be publicly available during business hours in the ADR office (Circuit Court Administration). Applications of approved mediators may also be reviewed at the ADR Clerk's office.
5. A person or committee designated by the Chief Judge shall review applications at least annually. Persons who qualify will be added to the list of qualified mediators maintained by the ADR Clerk.
6. Mediators will be assigned cases in a random or rotating manner that assures as nearly as possible that each mediator is assigned approximately the same number of cases over a period of time. If a substitute mediator is assigned, a similar assignment procedure will be used to select the substitute. In

exceptional circumstances, a judge ordering a case into mediation may appoint a specific mediator from the approved list who the judge believes is better suited to the type and nature of the case.

7. When domestic relations cases are being considered for mediation, judges will screen for cases which are not appropriate for mediation pursuant to MCR 3.216(D)(3) prior to referral. Mediators shall screen cases under this rule as part of the mediation process. SCAO domestic violence and child abuse and neglect screening protocols will be disseminated and used. Training materials from the Michigan Judicial Institute will be utilized when available and appropriate.
8. Persons ordered to mediation will be made aware of their ability to object to mediation by timely motion by providing information in a brochure or document available in the Court Administration Office, Clerk's Office, Macomb County Bar Association Office and also on the Court's Web site
9. ADR processes will be provided at a lower cost to persons not able to pay the hourly rate of mediators on the approved list by entering into a contract with the Macomb County Community Dispute Resolution Program, The Resolution Center. For purposes of this Plan, 'low cost' means usage of The Resolution Center's fee schedule. A copy of the fee schedule is attached as Appendix A. A copy of the initial contract with The Resolution Center is attached as Appendix B. In addition, the Court will explore the provision of mediation services at a rate commensurate with the ability to pay by mediators on the approved list.
10. Persons who are determined by the judge referring a case to mediation to be 'indigent' will be provided a Court ordered ADR process without cost to the indigent person. The standards of MCR 2.002 shall be a guide in determining indigency. The judge may order another party to pay all or part of the mediation fee. If a mediator must be selected by the ADR Clerk, the Clerk shall contact The Resolution Center to conduct the mediation or, if it is unable to provide the service, shall determine whether a mediator in rotation will provide pro bono mediation. Mediators will be strongly encouraged to provide mediation services pro bono to persons unable to afford mediation.
11. The Court will maintain statistics on the appointment of mediators in cases in which parties did not stipulate to their own mediator. Statistics will be compiled annually and will be made available to mediators, litigators and the public in the ADR Clerk's office.
12. The ADR Clerk shall prepare an annual report to the Chief Judge on the Court's ADR program. The Chief Judge, ADR Clerk and designated staff shall meeting to review the program. The Chief Judge may schedule meetings

to review the ADR program with designated judges, staff and stakeholders, if needed.

D. Repealer

Local Administrative Order 2000-10, governing case evaluation, is REPEALED.

E. Effective Date

This order is effective on December 1, 2004.

Peter J. Maceroni, Chief Judge

Dated: